

## § 842.67

award, the present value of any periodic payment upon which the award is based, is computed, unless the law of the place of occurrence prohibits it.

(b) Contributory negligence committed by the claimant, claimant's agent, or employee is not used as a bar to recovery unless local law or custom requires it. If the comparative negligence doctrine is used, the percentage of negligence of each party is reflected in the apportionment of liability. The amount of damage sustained by both parties is apportioned according to local law.

(c) The following principles of the collateral source doctrine are applied in settling a claim except where local law provides otherwise:

(1) Any sums the claimant recovers from collateral sources, including proceeds of property insurance the claimant paid for are not deducted from the claim except when those sums are from:

- (i) The US Government.
- (ii) A US military member or employee.
- (iii) A Joint tort-feasor.
- (iv) An Insurer of § 842.66(c)(1)(i), (ii), or (iii), above.

(2) Do not deduct insurance or any other payments where the US military member or employee would have to make reimbursement.

## § 842.67 Reconsideration of final denials.

This paragraph provides the procedures used to reconsider a final denial.

(a) An FCC may reopen, reverse, or reconsider, in whole or in part, any claim it previously decided if the request for reconsideration is received in a reasonable time. Sixty days is considered a reasonable time, but the FCC may waive the time limit for good cause.

(b) An FCC reconsiders the final action on a claim when there is:

- (1) New and material evidence concerning the claim.
- (2) Obvious error in facts or calculation of the original settlement.
- (3) Fraud or collusion in the original submission of the claim.

(c) The FCC must state the reason for reconsideration in its opinion. A court decision is not in itself sufficient basis

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for reconsidering a claim, but the facts that resulted in the judgment may warrant reconsideration. The amount of a court judgment is not binding on a FCC's determination of damage, but the commission may consider the judgment as evidence of the local law on the subject.

## § 842.68 Right of subrogation, indemnity, and contribution.

The Air Force becomes subrogated to the rights of the claimant upon settling a claim. The Air Force has the rights of indemnity and contribution permitted by the law of the situs or under contract. Contribution or indemnity should not be sought:

(a) From US military personnel or civilian employees whose conduct gave rise to government liability.

(b) Where recovery action would be harmful to international relations.

## Subpart H—International Agreement Claims (10 U.S.C. 2734a and 2734b)

### § 842.69 Scope of this subpart.

This subpart governs Air Force actions in investigating, processing, and settling claims under international agreements.

### § 842.70 Definitions.

The following are general definitions. See the relevant international agreement for the specific meaning of a term to use with a specific claim.

(a) *Civilian component*. Civilian personnel accompanying a force of a contracting party, who are employed by that force. Indigenous employees, contractor employees, or members of the American Red Cross are not a part of the civilian component unless specifically included in the agreement.

(b) *Contracting party*. A nation signing the governing agreement.

(c) *Force*. Personnel belonging to the land, sea, or air armed services of one contracting party when in the territory of another contracting party in connection with their official duties.

(d) *Legally responsible*. A term of art providing for settlement of claims under cost sharing international agreements consistent with the law of the receiving State. Often these claims are

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caused by local inhabitant employees, not part of the civilian component, under a respondeat superior theory.

(e) *Receiving state*. The country where the force or civilian component of another party is located.

(f) *Sending state*. The country sending the force or civilian component to the receiving State.

(g) *Third parties*. Those other than members of the force and civilian component of the sending or receiving States. Dependents, tourists, and other noninhabitants of a foreign country are third parties unless the agreement specifically excludes them.

### § 842.71 Delegations of authority.

(a) *Reimbursement authority*. The following individuals have delegated authority to reimburse or pay a pro rata share of a claim or object to a claim in any amount:

- (1) The Secretary of the Air Force.
- (2) The Judge Advocate General.
- (3) The Deputy Judge Advocate General.
- (4) The Chief of Civil Law.
- (5) Chief, Deputy Chief, and Branch Chiefs, Claims and Tort Litigation Staff.
- (6) The SJAs and Deputy SJAs of PACAF, USAFE, 5th Air Force, Lajes Field, and 9th Air Force (for CENTCOM).

(b) *Redelegation of authority*. A settlement authority may redelegate his or her authority to a subordinate judge advocate or civilian attorney in writing.

(c) *Authority to reduce, withdraw, and restore settlement authority*. Any superior settlement authority may reduce, withdraw, or restore delegated authority.

### § 842.72 Filing a claim.

(a) *Claims arising in a foreign country*. (1) If a third party claimant tries to file an international agreement claim with Air Force, direct that person to the appropriate receiving State office.

(2) If the Air Force receives a claim, send it to the US sending State office for delivery to the receiving State.

(b) *Claims arising in the United States*. The claimant files tort claims arising from the act or omission of military or civilian personnel of another con-

tracting party at any US military installation. The installation receiving the claim either:

(1) Investigates it if the foreign personnel are assigned there.

(2) Sends it to the installation where the foreign personnel are assigned.

## Subpart I—Use of Government Property Claims (10 U.S.C. 2737)

### § 842.73 Scope of this subpart.

This subpart explains how to settle and pay claims against the United States, for property damage, personal injury, or death incident to the use of a government vehicle or any other government property by Air Force military and civilian personnel which are not payable under any other statute.

### § 842.74 Definitions.

(a) *Government installation*. A United States Government facility having fixed boundaries and owned or controlled by the government.

(b) *Vehicle*. Every mechanical device used as a means of transportation on land.

### § 842.75 Delegations of authority.

(a) *Settlement authority*. The following individuals have delegated authority to settle claims for \$1,000 or less and deny them in any amount.

- (1) The Judge Advocate General.
- (2) The Deputy Judge Advocate General.
- (3) Director of Civil Law.
- (4) Chief, Deputy Chief and Branch Chiefs, Claims and Tort Litigation staff.
- (5) SJA of HQ 9AF for CENTCOM, and SJAs of PACAF and USAFE.
- (6) SJAs of single base GCMs and GCMs in PACAF and USAFE.
- (7) The SJA of each Air Force base, station and fixed installation.
- (8) Any other judge advocate designated by The Judge Advocate General.

(b) *Redelegation of authority*. A settlement authority may redelegate it to a subordinate judge advocate or civilian attorney in writing.

(c) *Authority to reduce, withdraw, and restore settlement authority*. Any superior settlement authority may reduce,